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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936

No. 621

THE FIRST NATIONAL BANK & TRUST COMPANY OF BRIDGEPORT, CONNECTICUT, TRUSTEE,

Petitioner,

vs.

FRANCIS E. BEACH,

Respondent.

BRIEF FOR PETITIONER.

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vs.

FRANCIS E. BEACH,

Respondent.

BRIEF FOR PETITIONER.

Opinions Below.

The opinion by the United States District Court for the District of Connecticut was written by Judge Carroll C. Hincks. It was filed December 2, 1935, has not been reported and appears on pages 7 and 8 of the record.

The opinion of the Circuit Court of Appeals (Circuit Judges Manton, L. Hand and Swan, Judge Hand writing, Judge Swan dissenting), which re-

The petitioner urges that the intent of the statute was to prevent the increase of farm tenancy and that the inclusion of persons in the situation of the respondent would not carry out the intent of Congress, inasmuch as his farm is already being operated by tenants.

It is submitted that the controlling purpose of Congress in the passage of the Act was to preserve the ownership and enjoyment of farm property to the mortgagor. This Court has recognized that such was the purpose of Congress.

Louisville Bank v. Radford 295 U. S. 555, 594

At the time of the passage of the Act the owners of farms were faced with widespread foreclosure of their mortgages which was resulting, and if permitted to continue would result, in transferring ownership of farm lands to corporations, banks, and insurance companies. Congress appreciated the gravity of the situation and sought to protect a basic industry of the nation from being undermined and destroyed. The intent of Congress was to meet the emergency and to prevent agriculture as an industry from facing ruination, as well as to aid the individual farm debtor.

It can not be reasonably urged that Congress being fully aware of the extent of farm tenancy in the United States at the time of the passage of the Act sought to deny the benefits of the Act to the vast number of landlords of farms who were as dependent on the yield of the farms as though they had worked the land themselves, as they had usually done originally. Rather, it can be urged that Congress concluded that it was more conducive to the welfare of the agricultural industry that individual landlords retain the

ownership of their farm lands rather than that the ownership thereof be transferred to corporations, banks and insurance companies.

The petitioner urges that nowhere in the Congressional Record can any intent be found to include individuals who derive the principal part of their income from the rental of farm lands.

It is submitted that the failure of discussion in Congress to reveal any intent to include the landlords of farm lands cannot serve to overcome the evidence of the intent of Congress as drawn from the plain language of the Act itself and its evident purpose.

Hecht v. Malley 265 U. S. 144, 155, 156.

The range of the amendment of May 15, 1935 shows an intent on the part of Congress to widen rather than restrict the statutory definition.

Lincoln v. Ricketts 297 U. S. 373, 375.

See:

Report 455, 74th Congress, 1st Session, House of Representatives, March 20, 1935.

C. AS TO PETITIONER'S CONTENTION THAT THE STATUTE SHOULD BE STRICTLY CONSTRUED.

Section 75 of the Bankruptcy Act was designed to promote the general welfare of the nation by preserving a basic industry that was faced with ruination as the result of economic conditions. Congress intended by the Act to provide a remedy for a condition that threatened calamity to the nation. Section

75 is clearly remedial legislation and as such is entitled to receive a broad and liberal interpretation in favor of the individuals for whom relief was intended. In view of the obvious intent of Congress to extend relief not only to those personally engaged in farming but also to the mortgagors of farm lands, the act should not be construed narrowly as to defeat the true intent of Congress.

> **Royal Indiana Co. v. American Bonding Co. 289 U. S. 165, 169.**
>
> **City Bank Farmers Trust Co. v. Irving Trust Co., No. 260, October Term, 1936.**

D. AS TO PETITIONER'S CONTENTION THAT THE INTENT OF THE LEGISLATURE SHOULD BE DEDUCED FROM READING THE LAW AS A WHOLE.

It is submitted that when Section 75 of the Bankruptcy Act is considered as a whole together with its objects and policy, it becomes clear and certain that the respondent is entitled to the benefits thereof according to the true intent and meaning of the Act.

The respondent owns and resides on a farm, is personally engaged in farming operations on a portion thereof consisting of 47½ acres devoting the major portion of his time thereto, and in addition receives the principal part of his income from the rental of 142½ acres thereof used by various tenants for farming purposes. (R. 8, 4).

Congress by the amendment of May 15, 1935, (Appendix A), made the definition of a "farmer" uniform by making said statutory definition apply to

Sec. 4 (b) of the Bankruptcy Act, U. S. C. Tit. 11, Sec. 22 (b), (Appendix A).

Sec. 4 (b) of the Bankruptcy Act, U. S. C. Tit. 11, Sec. 22 (b) (Appendix C), before May 15, 1935, provided that an involuntary petition could be filed against "any natural person except a wage earner or a person engaged chiefly in farming or tillage of the soil—."

On May 15, 1935, Sec. 4 (b) was amended (Appendix D), so as to provide that an involuntary petition could be filed against "any natural person except a wage earner or a farmer—."

It is reasonable to assume that Congress by the amendment of May 15, 1935, not only intended to broaden the definition of a farmer for the purposes of Sec. 4 (b) and Section 75 (r), but also intended that the decisions under Sec. 4 (b) prior to the amendment of May 15, 1935, should not be controlling on the question of whether a person is a farmer within Section 75.

Prior to the amendments of May 15, 1935, some District Courts held that the decisions under Sec. 4 (b) controlled on the question of who is a farmer under Sec. 75, while other District Courts held that the decisions under Sec. 4 (b) were not controlling. It is submitted that Congress intended to remove beyond any doubt by the amendments of May 15, 1935, that the decisions under Sec. 4 (b) prior to May 15, 1935 were not controlling on the question of who was a farmer within Sec. 75.

See:

In re Hilliker, supra

In re Day, supra

Matter of Palma Bros, 8 F. Supp. 920 (D. C. D. Nev.)

In re Wilkinson, 10 F. Supp. 100 (D. C. D. N. Y.)

Since the amendment of May 15, 1935, the District Courts have had no difficulty in determining that the decisions under Sec. 4 (b) before the said amendment were not controlling.

In re Shonkwiler, supra

In re Wright, supra

The title of Section 75 of the Bankruptcy Act describes the Act as relating to "Agricultural Compositions and Extensions". This seems to indicate that the Act was intended to aid those dependent on agriculture rather than only those personally engaged in farming.

Sub-section (r) of Section 75 as amended (Appendix A), provides in part "and a farmer shall be deemed a resident of any county in which such operation shall take place. The use of the word **"any"** demonstrates that it was appreciated by Congress that landlords of farms might in their operations extend into more than one county.

Sub-section (r) of Section 75, as amended, (Appendix A), further provides that the personal represen-

tative of a deceased farmer is included within the benefits of the Act. If the purpose of the Act was solely to aid the individual personally engaged in farming and not also to conserve farm lands and homes, and to protect those dependent on the yield of farms, it is submitted that there would be no need to extend the benefits of this Act to the personal representative of a deceased farmer.

CONCLUSION

The judgment of the Circuit Court that the respondent merited the classification of a "farmer" within the terms of the Sub-section (r) of Section 75 of the Bankruptcy Act, as amended, by reason of the fact that he derived the principal part of his income from farming operations was not only reasonable and just but also in accordance with the true meaning and intent of the Act.

It is respectfully submitted, that the judgment of the Circuit Court should be affirmed.

Respectfully Submitted,

SYDNEY P. SIMONS,

Counsel for the Respondent.

APPENDIX

A.

Sub-section (r) of Section 75 of the Bankruptcy Act, U. S. C., Tit. 11, Sec. 203 (r) (1936 Supp.), C. 114, Sec. 3, 49 Stat. 246, as amended May 15, 1935, the interpretation of which is involved herein, reads as follows:

> "For the purposes of this section, section 22 (b) and section 202, the term "farmer" includes not only an individual who is primarily bona fide personally engaged in producing products of the soil, but also any individual who is primarily bona fide personally engaged in dairy farming, the production of poultry or livestock, or the production of poultry or livestock products in their unmanufactured state, or the principal part of whose income is derived from any one or more of the foregoing operations; and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such operations occur".

B.

Sub-section (r) of Section 75 of the Bankruptcy Act, U. S. C., Tit. 11, Sec. 203 (r) (1935 Supp.), C. 204, Sec. 1, 47 Stat. 1473, as originally enacted March 3, 1933, read as follows:

> "For the purpose of this section, the term "farmer" means any individual who is personally bona fide engaged primarily in farming opera-

tions, or the principal part of whose income is derived from farming operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such farming operations occur".

C.

Section 4 (b) of the Bankruptcy Act, U. S. C. Tit. 11, Sec. 22 (b), C. 38, 47 Stat. 47, as amended Feb. 11, 1932, read as follows:

"Any natural person, except a wage earner or a person engaged chiefly in farming or the tillage of the soil, any unincorporated company, and any moneyed business, or commercial corporation (except a municipal, railroad, insurance, or banking corporation, or a building or loan association) owing debts to the amount of $1,000 or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this Act.

The bankruptcy of a corporation or association shall not release its officers, directors or stockholders, as such, from any liability under the laws of a State or Territory or of the United States".

D.

Section 4 (b) of the Bankruptcy Act, U. S. C. Tit. 11, Sec. 22 (b) (1936 Supp.), C. 114, Sec. 1, 49 Stat. 246, as amended May 15, 1935, reads as follows:

"Any natural person, except a wage earner or a farmer, any unincorporated company, and any

moneyed business, or commercial corporation (except a municipal, railroad, insurance or banking corporation, or a building and loan association) owing debts to the amount of $1,000 or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this Act.

The bankruptcy of a corporation or association shall not release its officers, directors or stockholders, as such, from any liability under the laws of any State or Territory or of the United States".